beat to death by foreign farmers whose governments subsidize them.

We need to try to close that. We need to help balance things. We need to have tough trade negotiations when we are negotiating multinational trade agreements. So these are things that we have worked on. We are going to continue to work on.

I believe that it is important for Democrats and Republicans to put aside partisan politics and, despite the hot air that is coming out of the cold State of New Hampshire, do what is best for America and do it here in Washington, D.C.

HOUSE AND SENATE CONFEREES SHOULD MEET IMMEDIATELY ON HMO REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Texas (Mr. GREEN) is recognized for 60 minutes as the designee of the minority leader.

Mr. GREEN of Texas. Madam Speaker, over the next hour, we will be hearing from lots of Members talking about not only the vote we took today on the motion to instruct conferees, but talk about the need for managed care reform and HMO reform. Because Congress, being out of session since late November, and having passed the managed care reform bill actually in early October, here we are February 1 and we are back in session with no hope in sight of the conference committee actually meeting. They have not met for 4 months.

Madam Speaker, that is the concern we have. That issue is still on the front burner for the American people. That is why today there was a great deal of time spent on H.R. 2990, instructing conferees on managed care that was authored by the gentleman from Arkansas (Mr. BERRY) who was trying to move that issue further along. In fact, since the motion to instruct passed, Madam Speaker, we hopefully will see our conference committee meeting not maybe at the end of February or March, but hopefully in the next 10 days; instead of seeing the delay, delay, delay that we have seen over the last 4 months, and not just over the last 4 months but over the last number of years whenever the House has considered managed care reform, even if a strong bill passes like it did this last time. And, particularly, when we see that the conference committee appointees from the majority side, not one of them voted for the bill that passed this House in early October.

So it kind of makes us a little suspicious that the bill that we worked so hard to pass on the bipartisan bill, Norwood-Dingell, and it is not as bipartisan as I would like, although it passed the House on a very bipartisan vote. And after months of negotiation we reached a consensus, again to have that bipartisan vote. It has been 4 months since we passed that bill, but we have not seen any action on the Norwood-Dingell HMO reform bill.

Our Republican leadership continues to, I do not know, maybe because we were out of session, but it seems like they delay. And when we talk about gimmicks and watered down proposals to take away the strength from a real managed care reform bill or HMO reform bill, because we heard today the bill that was actually considered had lots of different health care issues in it, including access.

I would like, as a Democrat, particularly to talk about access. We have 44 million Americans without some type of health insurance coverage. But I know we have 48 million Americans who have self-insured employer plans that do not have the protections that we need to have in this HMO reform bill.

So let us take it one step at a time and have it. Let us pass an HMO reform bill so those 44 million Americans, when they do get some type of insurance, hopefully we will pass some tax incentives and some encouragement for people to do it so that they will have a policy that will mean something instead of a worthless piece of paper.

Again, we have not had one meeting of the conference committee on the managed care reform bill. And I think this is unacceptable for not only those of us who voted in the majority, but those 44 million Americans who belong to the self-insured health insurance plans that oftentimes have little protections from neglectful and wrongful decisions made by their insurance plans.

My colleagues on the other side of the aisle, hopefully they are not choosing to ignore the will of the American people, because I have seen the poll numbers and they have been consistent for over a year. The people want a strong Patients' Bill of Rights and managed care reform bill so when they go to the doctor or to the hospital, that they will know that they have some protections. They will be able to choose to talk with their physician.

Our bill eliminates the gag clauses to where a physician and a patient can actually talk to each other without the managed care provider or the insurance company saying, No, we do not cover that procedure so you cannot even tell the patient that that is available; allows open access to specialists for women and children; gives patients timely access to an appeals process. And, again, health care delayed is health care denied. And if we do not have a swift and sure appeals process, then we are actually delaying health care and actually denying that health care.

It provides coverage for emergency care, and I see my colleague the gentleman from New Jersey (Mr. PALLONE) is here and he and I have talked for many months here on the floor that Americans should not have to drive by the closest emergency room to go to the one on their list. They ought to be stabilized at the closest one and then be transferred once they know whether the chest pains they are having is really the pizza they had last night or may actually be a heart attack. So we need to have the emergency care as soon as possible.

Ensure that patients can continue to see the same health provider, even if their provider leaves the plan or their plan changes. One of the concerns that we have is the continued changes in the plans. Physicians and providers go in and out of the plan, and also facilities, and the patients are the ones that seem like they are being whipsawed around and they are losing that health care in there.

One of the most important things that makes everything else in this laundry list important is the medical decision maker has to be held accountable. We have the health care provider, the doctor, held accountable under tort law. But if that doctor is being told by someone in Hartford or Omaha, No, you cannot do that, then that person needs to be responsible.

There is a fear that we have heard that employers are going to be sued. But in the bill that passed the House, that was not in the intent or the language of that bill, unless that employer is making that decision. But if an employer goes out and buys insurance and says, yes, I can afford this plan and I am going to pay for this plan, and turns it over to their carrier to make those decisions, then that carrier is the one, not the employer. And if there is better language to insulate the employer from being sued, I would hope the conference committee would consider it and hopefully even pass it.

In my home state of Texas which passed many of the patient protections included in the Norwood bill, there has been no premium increases based on HMO reform and there has been no mass lawsuits that have been filed, some of the things that we heard last year in some of the opposition. What Texas residents do have are health care protections that were in the Norwood-Dingell bill that we need to expand to all Americans, not just Texans who happen to have a policy that is licensed under the laws of the State of Texas.

In fact in my district in Houston, it is estimated that 60 percent of the people have an insurance plan which comes under ERISA or federal law and not under State law. So it does not do any good for the legislatures of all 50 States to pass these bills if 60 percent of the people are covered under Federal law. That is why I think it is important that we have all these protections in the bill; that a conference committee meet and come back with a

strong bill as strong as that which passed the House.

Again, there may be some small nuances that need to be changed, but not something like what passed the U.S. Senate because that one I would hope would be vetoed. The Senate bill actually overturns some of the State laws that have been passed. That is why I was pleased when the gentleman from Arkansas (Mr. BERRY) offered a motion to instruct conferees to begin meetings and pass a bill that provides real protections for patients.

However, Madam Speaker, we should not have to resort to those tactics to have any action on managed care reform. We ought to be able to do it because it is right. We should not have stonewalling on a conference committee that actually should have been meeting for the last 4 months but has not. The American people have asked us to pass a real HMO reform bill and it should be at the top of our agenda and we should do it without any more delays.

The conference committee needs to meet and promptly decide on a bill that protects patients and pass real HMO reform.

With that, I yield to the gentleman from New Jersey (Mr. PALLONE), the chair of our Health Task Force in the Democratic Caucus. And I understand each conference has a task force and I am glad the gentleman is chair of ours.

Mr. PALLONE. Madam Speaker, I thank the gentleman from Texas for what he said. And, particularly, because he pointed out how HMO reform, or something very similar to the Patients' Bill of Rights, has been, in fact, law in Texas now for some time and is working very well. And that they have had very few lawsuits.

□ 1715

And as he mentioned, and I think it is so important, the reason there are so few lawsuits is because basically the patient protections that we are advocating here at the federal level are preventive measures. In other words, the HMOs, when they know they have to provide these protections, take more precautions, do the right thing; therefore, it is not necessary for them to be sued, except in very few cases.

I think that sort of belies the critics of the Patients' Bill of Rights who say it is going to be litigious and there are going to be so many lawsuits and that costs will go up. In fact, just the opposite has happened in Texas. But the problem, as my colleague has pointed out, we need this at the federal level because of the federal preemption of those people who come under ERISA; those who, through their employer, are in self-insured plans, which is millions and millions of Americans that come under that federal preemption, so they are not allowed to sue their HMO.

I do not want to stress the suit aspect, however, because I do not think that is as crucial as the fact that an individual needs an independent ability to appeal a denial of care. And that can be done under the Patients' Bill of Rights through a very good internal review, or internal appeal, as well as an external administrative appeal where an individual goes before a board that is not influenced by the HMO. And that board can overturn the decision of the HMO to deny care without having to go to court.

So there are a lot of ways that we achieve accountability in the Patients' Bill of Rights without actually having to bring suit. And as the Texas case points out, those situations where suits are brought are very, very few indeed.

Now, Mr. Speaker, the reason why the gentleman from Texas (Mr. GREEN) and myself are here today is because earlier today, maybe within the last half hour or hour, we passed in the House, by a considerable margin, a motion to instruct the conferees so that we go to conference on the Patients' Bill of Rights. And we also directed those conferees to stick with the House version of the bill, which is really the only true Patients' Bill of Rights. What the Senate passed, in my opinion, is really sham reform that does not add up to anything in terms of actually dealing with the excesses and the abuses that we have seen so many times with HMOs.

So I wanted to react to some of the comments that were made on the other side of the aisle by the Republicans in the leadership who said this motion to instruct was not necessary. Well, let me say this motion to instruct was necessary, and the majority of Members on both sides of the aisle voted for it because it is necessary. And it is necessary because 4 months have passed since this House took up and passed the Patients' Bill of Rights, a very strong HMO reform bill. And yet in those 4 months, even though the Senate had passed another bill, I think last July or so, we still have not seen any action to bring the House and the Senate together, represented by their conferees, to try to come up with a bill that both houses can agree on and send to the President.

So when the Republican leadership says give us more time, I think one of my colleagues said on the Republican side, well, we will get to this by the end of the month, meaning the end of February, my reaction is, well, they have already had 4 months and time is running out. There will not be many days left in this Congress. Certainly we are going to be out of here by October if not sooner. And if we do not start meeting and having the conferees meet and talk about the differences between these bills and what can be done to achieve a consensus, we will never get a good Patients' Bill of Rights passed.

The other thing I would point out is the reason we insisted on sticking with the House version, so that the House version should be the one, or something close to it should be the one that the conference adopts, is simply because there is such a disparity between the House bill, which basically is true HMO reform and protects against these abuses, as opposed to the Senate bill that really does not cover anybody.

My colleague from Texas was pointing to some of these things, but I just wanted to point out some of the gross disparities between the two bills. The Republican Senate bill leaves more than 100 million Americans uncovered, because most substantive protections in the bill apply only to individuals enrolled in private employment-based self-funded plans. Now, a self-funded plan is one in which the employer pays medical bills directly, rather than buying coverage from an HMO or insurance company. These are the ones that come under the ERISA exemption, or the ERISA preemption I should say.

There was a recent study in Health Affairs that found that only 2 percent of employers offer HMOs that would be covered by the standards in the Republican Senate bill and only 9 percent of employees are in such HMOs. Self-funded coverage is typically offered only by large companies. Of 161 million privately insured Americans, only 48 million are enrolled in such plans. And of these 48 million, only a small number, at most 10 percent, are in HMOs.

So when I say that the Senate Republican bill is sham HMO reform, I am not just making that up. We have data to show that because of the exclusions and because so many insurance plans, so many people covered by their insurance would not come under this bill and have the patient protections we are talking about, in effect the Senate bill is meaningless. It does not have any teeth to it at all because it does not even apply to most people with health insurance.

The list could go on. By contrast, I should point out, of course, the Democratic bill would apply to all those plans. And I should say it is not even the Democratic bill. It is the House-passed bill that was a Democratic bill that was passed on a bipartisan basis versus a Senate bill. All we are saying in this motion to instruct is that we must stick with the House version, because if we do not, we will not have a true Patients' Bill of Rights.

I wanted to give a few other examples. And I am not looking to beat a dead horse here, but I want to give a few more examples of the contrasts between this Republican Senate bill and this essentially Democratic House bill that we keep insisting on.

With regard to care for women in the Republican Senate bill, it does not allow designation of OB-GYN as a primary care physician. It does not require a plan to allow direct access to OB-GYN except for routine care. On

the other hand, the Democratic bill, the House bill that we insisted on today in the motion to instruct, allows patients to designate OB-GYN as a primary care physician and provides direct access to OB-GYN for all OB-GYN services.

Specialty care. How many of our constituents have come to us and told us that some of the problems they have had with HMOs is they do not have access to the specialty care that they need. Well, in the Republican Senate bill there is no ability to go outside the HMO network at no extra cost if the HMO's network is inadequate with regard to a particular specialist or specialty care. Basically, what the Republican Senate bill does is to allow HMOs to write contracts rendering the patient protections meaningless. In other words, specialty care is covered under the contract only when authorized by a gatekeeper.

Well, what good is that? That is the problem that our constituents are complaining about, how they cannot go to a specialty doctor unless they get a referral each time; and a lot of times the specialty care is not even available within the network. This is all meaningless under the Republican Senate bill. The Democratic, the House passed bill, provides the right to specialty care if specialty care is medically indicated. And it ensures no extra charge for use of non-network specialists if the HMO has no specialist in network appropriate to treat the condition.

Just a couple of other things. Probably the most important thing, and I know my colleague from Texas would agree, is not only the ability to go for some kind of external review if someone has been denied care that is not biased against them, or ultimately the ability to bring suit, but also the whole definition of what is medically necessary. In other words, the problem that we face with so many of our constituents is that the decision of what kind of care they need, the decision of what is medically necessary, which is essentially the same thing, right now is basically made by the insurance company or the HMO.

What my constituents say to me is, I do not want the decision about what kind of operation I get or how long I stay in the hospital or what kind of equipment I am eligible to use; I do not want that to be made by the insurance company. I want it to be made by my physician, with me, because my physician knows what is best for me. He is the medical adviser. He is the doctor. He is the one that knows, not the nameless bureaucrat working for the insurance company.

Well, under the Republican Senate bill they allow the HMOs to define medically necessary, what is medically necessary. No matter how narrow or unfair to patients the HMO's definition, their definition controls in any coverage decision, including decisions by an independent third-party reviewer. So even if someone had the external review or had the right to bring suit, what good is it if all the external reviewer is going to go over or what the court looks at is how the HMO defines what is medically necessary? That just kills the whole thing. That makes the whole HMO reform meaningless, if that decision about how to define what is medically necessary is essentially made by the HMO.

What we say, and most importantly in the House-passed bill, the one that we have been insisting on today in the motion to instruct, is that that definition is made by the physician with the patient, and basically is a definition based on what the standard of care is within that specialty group, by the diplomates, the people that have the diploma in cardiac care or the people that have the expertise in other kinds of specialty care. Those are the people who should be defining what is medically necessary.

I could go on and on, and we will talk a little more about why this Democratic House bill is so much better than the Senate bill and why we need to insist on that in the conference; but the other thing that I wanted to mention, and then I will yield back to my colleague, and this came up again during the debate today on the motion to instruct, is that what I see happening here on the Republican side of the aisle with the Republican leadership is that they realize that the Patients' Bill of Rights has majority support in this House, and I think also in the Senate as well, and amongst the American people, and so they cannot really fight it any more by saying it is a bad bill. So what they are now trying to do is to change the subject.

Instead of talking about the Patients' Bill of Rights today, so many of my colleagues on the Republican side of the aisle tried to bring up other issues. One of my Republican colleagues talked about why we do not deal with the issue of medical mistakes, because that has become a major issue now. I am not saying it should not be addressed, but why are we mucking up the Patients' Bill of Rights when we know where we stand and we know we can pass that and send it to the President to sign? Why would we want to muck that up by dealing with the issue of medical mistakes, which will probably take another year or two to get that resolved and we can finally get a consensus on that.

Another Republican colleague talked about access for the uninsured. And I am totally in favor of more access for the uninsured. The President in his State of the Union address the other day, and my colleague from Texas, talked about how we have proposals now on the Democratic side that would expand health insurance coverage for more children, taking the parents of the kids that are part of the Kids' Care Initiative; address the problems of the near elderly so they can buy into Medicare. Sure, all these other access issues for the uninsured need to be resolved, but, again, we do not have a census on that. They are now in the formative stage in terms of the debate and where we are going to go. They have to have committee hearings, they have to be voted on the floor, they have to be addressed in both houses, and there is no consensus.

So, again, why would we want to muck up the issue of the Patients' Bill of Rights, which has the consensus and can get the votes and can pass and be signed by the President? Why would we want to throw in all these other things? Basically, it comes back to what the Republican leadership was doing all along with the Patients' Bill of Rights. They tried their darnedest to try to throw all kinds of poison pills into that debate and add all these amendments with the MSAs, the medical savings accounts, the health marts, and all these other things, even the issue of medical malpractice at one point. All these things they tried to throw in as poison pills so that we could not get to the heart of the issue where there was a consensus.

I simply say once again, based on that motion to instruct, do not fool around any more. Let us go to conference. We know we can deal with these HMO reform issues, these patient protections. Let us deal with them and resolve them in a way that protects the American people and not try all these other gimmicks to try to make it so we never get to what is really important here and what we can pass.

With that, I would yield back to my colleague.

Mr. GREEN of Texas. Well, just in closing, because I think this is important, the first day we have actually had votes, other than a rollcall vote last week, the HMO reform bill is literally the top priority for us. Sure, we have to deal with the budget and we need to deal with medical mistakes, and there are hearings in the Senate going on, because access is important; but let us deal with one issue at a time.

I think the American people understand that if someone is opposed to something and they do not really want to oppose it, they will throw up something else. It is kind of like juggling balls. If I throw the red one over here, maybe my colleague will look at that instead of what I am really doing. That is what concerns me after the debate today.

I would hope that that conference committee would meet. I am concerned because of the number of members on it who did not vote for the bill that passed the House. And there were lots of Republican Members who voted for the bill, but, again, it looks like it is

stacked and it is weighted against a real HMO reform bill, particularly when we look at what the Senate passed and what the Senate side will be doing.

But I hope the American people understand that we will continue to talk about this over the next few months unless we have a vote.

□ 1730

And even if we have a vote, if they come back with a weak milquetoast piece of legislation, and next year let us pass something that sounds good, then I will be up here saying, no, it is not good. Let us not pass something that is really a fake, this is a fig leaf.

After 4 months of delay, I would think that now we may see some action. And if they come back, well, let us throw something out there and we want something that is really HMO reform patterned after what success that has happened not just in Texas but with States all over the country, we have a pattern that has worked.

For example, when we talk about the external appeals process, the external appeals work in Texas is they have the right to go to court afterwards. Fifty-two percent of the appeals are found in favor of the patient.

Now, sure, half of them, a little less than half, are found in favor of the insurance company. And so, if I as a patient take an appeal in the external appeals process and I am not entitled to that type of service or that type of treatment, then I am probably not going to go to the courthouse.

But I tell my colleagues, if 52, better than half, of the people in the insurance company are wrong the first time and if we do not pass a strong appeals process with a backup of the right to go to the courthouse, then those half of those people in Texas who are finding now, or more than half, that they really have some good coverage and they have that treatment that they need, they will be lost. And so, that is why this issue is so important not just for those of us who run for office and serve here but for the people we represent.

I represent both Democrats and Republicans, like my colleague; and I have found that in my district, I do not ask people whether they are Democrat or Republican when they call me, but it is interesting when the people who do call, we have a lot of people who say, I am a Republican but I need to have help with my HMO problem.

So I think it is an issue that cuts across party lines. It is important. The polls have shown that, not only Republicans and Democrats, but Independents. And that is why we had the vote and will continue this effort.

Mr. PALLONE. Mr. Speaker, I appreciate the comments of the gentleman.

If I could just add one thing before we conclude, one of the things that I found in the 2 months that we had the recess and we were back in our districts and I had a lot of forums on health care on seniors or just in general with my constituents in the various towns that I represent, we are living in very good economic times and the economy is good and generally most people are doing fairly well, but there is a tremendous frustration that the Government does not work. And it is I think, for whatever reason, Congress seems to be the main focus of that, the notion that somehow all we do down here is talk and we never get anything done.

The reason I was so frustrated today when I heard some of the arguments from the Republican side is because I know that this issue, the Patients' Bill of Rights issue, the HMO reform issue, is something that we can get done. Because the public wants it done. And we had Republicans join us on this Patients' Bill of Rights, and I know that the President will sign it. So I do not want this to be another issue that is important that falls by the wayside because the Congress and the President could not get their act together.

If there is anything that we can pass this year, this is the issue. And I think we just have an obligation to our constituents to show that, on something so important as this, that we can actually accomplish something and not just sit here and argue back and forth.

Obviously, we need to argue, otherwise my colleague and I would not be up here. But we also need to pass something. And that is what we are all about.

Mr. GREEN of Texas. Mr. Speaker, in closing, I would like to say, sure, I would like to talk about access, prescription medication for seniors, medical mistakes. Let us take it one step at a time.

ANTIBODIES TO SQUALENE IN GULF WAR SYNDROME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. METCALF) is recognized for 5 minutes.

Mr. METCALF. Madam Speaker, joined by several colleagues, today I wrote Secretary of Defense William Cohen asking for an objective analysis of the ''Antibodies to Squalene in Gulf War Syndrome,'' an article that has just been published in the February 2000 issue of Experimental and Molecular Pathology.

This peer-reviewed article found anti-squalene antibodies in a very high percentage of sick Gulf War-era veterans. As a bio-marker for the disease process involved in Gulf War illnesses, the blood tests cited in the study could provide a vital diagnostic tool. We hope this will quickly lead to improved medical treatments for many who are suffering.

Many who have heard about this issue are anxious to understand the ramifications, especially those veterans and their families whose lives sadly have been directly affected.

We certainly acknowledge the need for further research. However, that should not preclude a vigorous examination of the immediate benefits this study may provide doctors treating those who suffer from Gulf War illnesses.

The House-passed version of the Fiscal Year 2000 Defense Appropriations Bill included report language instructing the Department of Defense to develop and/or validate the assay to test for the presence of squalene antibodies. This action was taken in response to DOD unwillingness to cooperate with the March 1999 General Accounting Office recommendation. It reflected my firm belief that the integrity of the assay was the first step in finding answers.

Now that this study has been peer-reviewed and published, we need to take the next step and build on established science. An internal review by the same individuals within DOD who were unwilling to cooperate for months does not constitute the kind of science that those who sacrificed for this Nation deserve. Given the published article, it seems prudent to use the assay if it could help sick Gulf War veterans. At this critical juncture, my colleagues and myself fervently hope that Secretary Cohen agrees.

We must stay the course and find the answers that will bring effective medical treatments for those who suffer from Gulf War illnesses. Let me assure my colleagues, Mr. Speaker, I intend to do so.

MARRIAGE TAX PENALTY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from California (Mr. HERGER) is recognized for 60 minutes as the designee of the majority leader.

Mr. HERGER. Madam Speaker, our tax system is unfair, for many reasons. It punishes those who invest, those who succeed in business, even those who die. But one tax provision which seems particularly unfair is the marriage tax penalty. This tax penalty occurs when a married couple pays more in taxes by filing jointly than they would if each spouse could file as a single person.

For example, an individual earning $25,500 would be taxed at 15 percent, while a married couple with incomes of $25,000 each has a portion of their income taxed at 28 percent.

In addition, while two single taxpayers receive a standard deduction of $6,950 apiece, for a total of $13,900, a married couple only receives a standard deduction of $12,500.

Madam Speaker, that is simply unfair. When a couple says, ''I do,'' they are not agreeing to higher taxes. When